

Mr. Ron Josephson
U.S. Environmental Protection Agency
Ariel Rios Building, Mail Code 5304 W
1200 Pennsylvania Avenue, N. W.
Washington, DC 20460

Re: EPA's Proposed Expansion of Headwork's Exemption: Inclusion of Bulk Storage Terminals in *De Minimis* Exclusion

Dear Mr. Josephson:

This letter is submitted on behalf of the American Petroleum Institute (API) in support of the Texas Terminal Operators (TTO) letter dated September 24, 2001, submitted to you regarding the proposed expansion of the headwork's exemption to include bulk storage terminals in the de minimis exclusion. API represents more than 400 member companies involved in all aspects of the oil and natural gas industry.

Bulk terminals handle petroleum and chemicals as extensions of manufacturing operations, specifically those chemicals¹ that are regulated as listed commercial chemical products in federal solid waste regulations. Since no manufacturing occurs at terminal facilities, terminals have not been able to utilize the de minimis losses exclusions in the RCRA rules currently available to manufacturing facilities. Terminal operations generate various wastewater streams, primarily from rainwater that falls in containment, loading/unloading and transfer areas and intermittently from hydrostatic testing, line flushing, and storage tank/railcar rinsing. Although bulk residues in storage tanks and/or railcars are removed as solid waste prior to the rinsing operation and managed in accordance with state and federal solid waste management regulations, small quantities of residual commercial chemical products or manufacturing intermediates that are transported to and/or stored at the terminal facilities come in contact with rainwater and or water used for activities such as hydrotesting, rinsing, or flushing. Based on the way the current RCRA regulations are practiced, discarded portions of many commercial chemical products and intermediates are considered to be listed wastes². Further, due to the mixture rule, mixtures of even small portions of the residual commercial chemical products or intermediates and the rinse or rain water produces a listed hazardous waste stream that must be managed as such, without regard to the concentration of the chemical constituents therein, unless delisted. Terminal

¹ See 40 C.F.R. Part 261.33(e) and (f).

² See 40 C.F.R. Part 261.33(e) and (f).

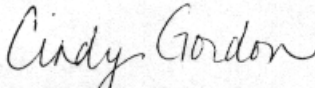
operators manage these hazardous wastewaters either on-site in wastewater treatment facilities with a subsequent NPDES regulated discharge or by discharge to a publicly owned treatment works.

API supports EPA's efforts to extend the de minimis losses exemption to the terminals as these wastewaters are similar in nature to those at manufacturing operations, and terminals are a necessary extension to manufacturing.

API also agrees with the TTO concern regarding the use of CERCLA "reportable quantities" in defining de minimis losses, particularly for discarded commercial chemical products and/or manufacturing intermediates. The concept of reportable quantities evolved under CERCLA. De minimis losses must continue to be managed differently from "releases" to the "environment."

API looks forward to the EPA's finalization of its rulemaking package that addresses the referenced concerns. Should you have any questions, or need additional information, please do not hesitate to contact me at (202) 682-8482.

Sincerely,

A handwritten signature in cursive script that reads "Cindy Gordon".

Cindy Gordon